

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2004-316-C - ORDER NO. 2004-591
DECEMBER 2, 2004

| | | |
|--|---|--------------------|
| IN RE: Petition of BellSouth Telecommunications, |) | ORDER ESTABLISHING |
| Inc. to Establish a Generic Docket to |) | DOCKET AND |
| Consider Amendments to Interconnection |) | EVIDENTIARY |
| Agreements Resulting form Changes of Law. |) | HEARING |

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Petition of BellSouth Telecommunications, Inc. (BellSouth) to establish a generic docket to consider amendments to interconnection agreements resulting from change of law.

BellSouth notes that over the past year, the rules governing the unbundling of network elements have been the centerpiece of various FCC orders, including legal challenges to those orders. For instance, BellSouth notes that on October 2, 2003, the Federal Communications Commission's (FCC's) Triennial Review Order became effective. This Order, according to BellSouth, materially modified the rights and obligations of both incumbent local exchange carriers (ILECs) and competitive local exchange carriers (CLECs) in numerous respects, including rights and obligations regarding the unbundling of network elements under section 251 of the Telecommunications Act of 1996. As a result of these changes, and pursuant to the

interconnection agreements between BellSouth and the CLECs in South Carolina, BellSouth issued change of law requests to the CLECs requesting that the interconnection agreements be amended to reflect the changes brought about by the Triennial Review Order. BellSouth requested that the CLECs engage in negotiations with BellSouth to develop the appropriate amendments to the interconnection agreements. During this time, the CLECs appealed various aspects of the Triennial Review Order. Certain provisions of that Order were overturned. As a result, BellSouth issued another change of law notification advising the CLECs of the decision of the DC Court of Appeals and requested further negotiations regarding amendments to the interconnection agreements.

On August 20, 2004, while negotiations between BellSouth and the CLECs were ongoing, the FCC released its Interim Rules Order, again modifying the rights and obligations of ILECs and CLECs. Pursuant to the interconnection agreements between BellSouth and the CLECs in South Carolina, BellSouth issued a supplemental change of law notification advising the CLECs of the Interim Rules Order and requesting further negotiations regarding amendments to the interconnection agreements.

BellSouth states that, to date, it and the majority of CLECs have not been able to agree on the specific modifications to the interconnection agreements that are required, if any, as the result of the Triennial Review Order, the DC Circuit's decision, and the Interim Rules Order. BellSouth notes that there are hundreds of interconnection agreements that have been filed and approved in South Carolina. Thus, the options left to BellSouth are to either file hundreds of separate change-of-law proceedings on the

unresolved issues, or attempt to address the necessary changes required by these decisions and orders in a single generic proceeding.

Accordingly, BellSouth files the presently described Petition. BellSouth states a belief that a single generic proceeding addressing the impact of the referenced decisions and orders on existing interconnection agreements is a better use of the Commission's time and resources than conducting hundreds of separate proceedings. Further, under BellSouth's proposal, the Commission will have the opportunity to consider the issues from a broader industry perspective, rather than an individual ILEC/CLEC perspective.

We agree with BellSouth's statements on this issue, and we hereby establish a generic docket in this matter. We will hold evidentiary hearings to consider amendments to interconnection agreements resulting from changes of law, based on the reasoning stated by BellSouth.

The hearings shall be scheduled in January in order to allow sufficient time for implementation of these amendments by the end of the first phase of the FCC's interim rules.

(SEAL)